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09/533,048	03/22/2000	Jay H. Connelly	042390.P8387	8359

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EXAMINER
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BARQADLE, YASIN M

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 07/02/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/533,048

Applicant(s)

CONNELLY, JAY H.

Examiner

Yasin M Barqadle

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 21 April 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 8, 20 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-19, 21-23 and 25-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**Response to Amendment**

1. The Amendment filed 04/21/03 has been entered and made of record.
2. Applicant's arguments with respect to claims 1-30 have been considered but they are not deemed to be persuasive.
3. Claims 8, 20, and 24 are cancelled.
4. Claims 1-7, 9-19, 21-23 and 25-30 are presented for examination.

In considering applicant's argument, page 14, second paragraph `` the operations recited in each of the bold italicize subparagraphs are not taught or suggested in the cited art, either independently or in combination. For example, under amended claim 1, the claimed invention generates ratings for each of the data files to store a the client'', Applicant's attention is drawn to Col. 6, lines 29-50, wherein it is stated ``By recommending the locally stored items to the subscriber and making them easy to select, the delivery system 22 reduces the probability that an on-demand request will be made from the central distribution server 24. After using the requested item, the subscriber interface 58 preferably prompts the subscriber to enter a rating. This can be as simple as pushing a number on

Art Unit: 2153

a scale from 1 to 10 or may additionally include entering comments about the item. Alternately, the system could just record the use of the item as a positive vote. As an additional feature, the local server 28 can serve as a smart VCR by monitoring a subscriber's viewing habits for non-paying programs and by storing regularly watched programs if the viewer happens to be missing them. This information about regular viewing habits can be used to augment the subscriber profile to improve prediction." Therefore, it clearly shows that individual users make their own rating and also the local sever 28 serves as a smart VCR by monitoring a subscriber's view habits and stores regularly watched programs for the viewer.

As per applicant's argument in page 18, paragraph 1, `` the applicant respectfully asserts that the cited art does not teach or suggest, alone or in combination, the elements of broadcasting meta data including attribute data describing the content of respective data files, and broadcasting a meta-data broadcast schedule.'' Examiner contends that the digital items selected and rated by the subscribers inherently include attributes such the movie type, actor names and so on. As for broadcast scheduling the examiner contends that Payton in Col. 6, lines 59-67 and Col. 7, lines 1-60, teaches three types of scheduling, off-peak scheduling, on demand scheduling and continuous operation. Therefore, Payton teaches a scheduling system that responds to

Art Unit: 2153

subscribers' on-demand request by scheduling the digital information items for broadcast.

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,6-7, 9-11,14-15,19, 21-23, and 25-30 rejected under 35 U.S.C. 102(b) as being anticipated by Payton (5790935).

As per claim 1,11,15, Payton teaches a method, apparatus and a machine readable-medium, comprising:

receiving meta-data broadcast by a server system at a client system (Fig. 2,28 and 32), the meta-data including attributes describing the content of respective data files from among a plurality of data files (digital items that include video, audio selections and computer application) to be broadcast later by the server system (Fig. 2, server 24) [Col. 4, lines 45-67 and Col. 5, lines 1- 45];

Art Unit: 2153

generating ratings for each of the plurality of data files via the client system based on existing attribute rating data stored by the client stem and common attributes contained in the meta-data for that data file [Col. 6, lines 1-50];

selecting, via the client system, one or more of the plurality of data files described by the meta-data to store based on the ratings generated for the plurality of the files [Col. 6, lines 1-50]; and

selectively storing, by via the client system, the selected one or more of the plurality of data files in response to a later broadcast of those data files by the server system [Col. 2, lines 64-67 and Col. 3, lines 1-8; Col. 6, lines 1-50].

As per claims 6, Payton teaches the invention wherein the plurality of data files comprise at least one of video information, graphical information, audio information, multi media information or textual information [Col. 4, line 55-64].

As per claim 7, 19 and 23, Payton teaches a method and apparatus and a machine readable-medium, comprising:

broadcasting meta-data to one or more client systems (Fig. 2, 28 and 32), the meta-data including attribute data describing the content of respective data files from among a plurality of data files to be broadcast later by the server system (Fig. 2, server 24) [Col. 4, lines 45-67 and Col. 5, lines 1- 45]; and

Art Unit: 2153

broadcasting a meta-data broadcast schedule prior to broadcasting the metadata, the meta-data broadcast schedule to indicate a time when the meta-data is to be subsequently broadcast [Col. 4, lines 23-44 and Col.5, lines 22-67].

As per claims 9, 21 and 25, Payton teaches the invention further comprising broadcasting a data file broadcast schedule to indicate a time when each one of the plurality of data files is to be broadcast Later [Col. 4, lines 23-44 and Col.5, lines 22-67].

As per claims 10,14,18,22 and 26, Payton teaches the invention wherein the plurality of data files comprise at least one of video information, graphical information, audio information, multi media information or textual information [Col. 4, line 55-64].

As per claim 27, Payton teaches a system, comprising:

a broadcast server [Fig.2, Server 24];

one or more client systems coupled to the broadcast server [Fig. 2, items 28 and 32];

wherein the broadcast server is coupled to broadcast meta-data to the one or more client systems, the meta-data including attribute data describing the content of respective data files from among a plurality of data files to be broadcast later by the server system [Col. 4, lines 45-67 and Col. 5, lines

Art Unit: 2153

1- 67];

wherein each client system is coupled to generate ratings for each of the plurality of data files based on existing attribute ratings data stored by the client system and common attributes contained in the meta-data for that data file and to select one or more of the plurality of data files to store based on the ratings generated for the plurality of data files [Col. 5, lines 1- 45 and Col. 6, lines 1-50];

wherein the broadcast system is further coupled to broadcast the plurality of data files [Col. 4, lines 45-67 and Col. 5, lines 1- 45];

wherein each client system is coupled to selectively store the selected one or more of the plurality of data files broadcast by the server system [Col. 6, lines 1-50].

As per claim 28, Payton teaches a system of wherein the one or more client systems coupled to the broadcast server through a network [Col. 5, lines 55-67].

As per claim 29, Payton teaches system wherein the one or more client systems coupled to the broadcast server through a radio transmission through the atmosphere [Col. 5, lines 55-67].

As per claim 30, Payton teaches system wherein communications between the one or more client systems and the broadcast server are uni-directional [Fig. 2, Col. 4, lines 45-51].



Art Unit: 2153

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-5 and 12,13,16 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Payton US (5790935) in view of Payne et al (6021433).

As per claim 2, Payton teaches the claimed invention as explained above. Payton does not teach explicitly activating a client system prior to a broadcast of the meta-data by the server system to receive the meta-data. However, Payne et al, in an analogous art, teach a communication server that activates a viewer's computer by sending an alert message notifying about an incoming broadcast data message that is of user's interest [col. 2, lines 65-67 and Col. 3, lines 1-42]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Payne et al with that of Payton for the advantage of receiving pertinent broadcast

Art Unit: 2153

information instantly [Col. 8, lines 61-67 and Col. 9, lines 1-3].

As per claim 3, Payton teaches the method of claim 2 further comprising receiving a meta-data broadcast schedule broadcast by the server [Col. 4, lines 45-67 and Col. 5, lines 1-45], while Payne et al teach the client system activated in response to the meta-data broadcast schedule to receive the meta-data broadcast [col. 2, lines 65-67 and Col. 3, lines 1-42 and Col. 7, lines 43-67 and Col. 8, lines 1-47].

As per claim 4, Payne et al teach the method further comprising activating a client system prior to a broadcast time of each one of the selected one or more of the plurality of data files broadcast by the server system [col. 2, lines 65-67 and Col. 3, lines 1-42 and Col. 3, lines 1-42 and Col. 7, lines 43-67 and Col. 8, lines 1-47].

As per claim 5, Payne et al teach the method comprising receiving a broadcast schedule of the plurality of data files broadcast by the server, the client system activated in response to the broadcast schedule of the plurality of data files prior to the broadcast of each one of the selected one or more of the plurality of data files by the server system [col. 2, lines 65-67 and Col. 3, lines 1-42 and Col. 3, lines 1-42 and Col. 7, lines 43-67 and Col. 8, lines 1-47].

Art Unit: 2153

As per claim 12 and 16, Payton teaches the system wherein the processor is further caused to receive a meta-data broadcast schedule broadcast by the server [Col. 4, lines 45-67 and Col. 5, lines 1- 45]; and

As per the limitation to activate the apparatus in response to the meta-data broadcast schedule prior to the meta-data broadcast [see the rejection on claim 3 above].

As per claims 13 and 17, Payton teaches the system wherein the processor is further caused to receive a broadcast schedule of the plurality of data files broadcast by the server [Col. 4, lines 45-67 and Col. 5, lines 1- 45]; and

As to the limitation of activating the apparatus in response to the broadcast schedule of the plurality of data files prior to the broadcast of each one of the selected one or more of the plurality of data files by the server system [see the rejection on claim 4 above].

### *Conclusion*

The prior made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin M Barqadle whose telephone number is 703-305-5971. The examiner can normally be reached on 9:00 AM to 5:30 PM.

Art Unit: 2153

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 703-305-9717. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-304-3900.

Yasin Barqadle



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